

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23173 of 2011

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Maheshwar Jha Son Of Late Kanak Lal Jha Resident Of Village and P.O. Samsa P.S. ,Mansurchak, Distt, - Begusarai At Present In 6. M.F. / 8/276 M.I.G. Bahadurpur Housing Colony, P.S. - Agamkuan, Town And Distt. Patna

... .. Petitioner/s

Versus

1. Bihar State Khadi & Village Industries Board, Patna through the Chief Executive Officer, Bihar State Khadi And Village Industries Board, Patna
2. Chairman Bihar State Khadi And Village Industries Board, Gandhi Maidan East, Patna - 800004
3. Chief Executive Officer, Bihar State Khadi And Village Industries Board, Gandhi Maidan East, Patna - 800004
4. The State Of Bihar , Through Principle Secretary Govt. Of Bihar Department Of Industries, Patna
5. The Principal Secretary, Govt. Of Bihar Department Of Industries, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madan Prasad Singh No-2 Mr. Ratnesh Kumar, Advocate Mr. Arun Kumar Singh, Advocate
For the State	:	Mr. Anil Kumar Sinha, GA01
For Khadi Board	:	Mr. Amitesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 31-01-2019

Heard the parties.

In the present case, the petitioner is seeking the benefit of officiation for discharging the higher responsibility during the period of March, 1990 to July, 2005 i.e. till retirement.

The petitioner was appointed as Assistant Manager in February, 1972 in Bihar State Khadhi and Village Industries Board and joined at Patna and in due course, he superannuated from service on 31.07.2005 discharging the function of Supervisor-cum-In-charge Development Officer, Patna.



The petitioner had approached this Court earlier for the payment of officiating allowance for the period he has taken burden of higher responsibility on his shoulder, but he has not been paid in terms of Bihar Service Code.

Learned counsel for the petitioner submits that he is entitled to the officiating allowance for the period he has discharged the duty as Supervisor and further as In-charge Development Officer.

From the record, it appears that he was asked to discharge the function of Assistant Development Officer vide Memo No. 946 dated 29.03.1990 and whereafter vide Memo No. 212 dated 06.08.1995 he was asked to discharge the duty of Development Officer. Till his superannuation, he continued to discharge the duty but learned counsel for the State submits that in the letter itself it has been mentioned that except the salary, no further payment would be made and, as such, he is not entitled to any relief, but if the person has no bargaining power and receives the order without challenging its content, in such circumstances, it will be travesty of justice to refuse to grant the officiating allowance to the person. The Bihar Service Code itself deals with the entitlement of officiating allowance in the event of officer, who is discharging the higher responsibility along with his own duty.



In such view of the matter, the decision by which the petitioner has been refused to be paid the extra amount of officiating allowance cannot be sustained and, accordingly, the order dated 04.03.2009 is partially interfered with regard to Clause No.6 by which the respondent refused to grant the extra benefit for the shouldering the higher responsibility.

Accordingly, Clause No.6 of the said letter dated 04.03.2009 is quashed and this Court directs the concerned Authority to grant the extra benefit of officiating for the work he has discharged the higher responsibility within a period of four months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction this writ petition is allowed.

(Shivaji Pandey, J)

V.K.Pandey/
S. Katyayan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.02.2019
Transmission Date	NA

